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MM Docket No. 93-156

File No. BRCT-911129KR

File No. BPCT-920228KE

For Construction Permit
Monroe, Georgia

OPPOSITION TO COUNTERMOTION
FOR SUMMARY DECISION

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SUMMARY

Trinity's counter motion for summary decision must be denied because it is based upon the fundamentally flawed promise that Trinity can operate from a short-spaced site but Glendale must specify a fully-spaced site. Glendale is entitled to be as short-spaced as Trinity. Trinity's attempt to distinguish EZ Communications, Inc. and Royce International Broadcasting must be rejected.

The additional .26 kilometers in short-spacing that Glendale proposes is de minimis. Three substantial public interest factors justify that de minimis increase.

'AUG 12 1993

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re Application of)	MM Docket No. 93-156
)	
Trinity Christian Center of)	
Santa Ana, Inc., d/b/a TRINITY)	
BROADCASTING NETWORK)	File No. BRCT-911129KR
)	
For Renewal of License of)	
Commercial Television Station)	
WHSB-TV, Monroe, Georgia)	
)	
and)	
)	
GLENDAL BROADCASTING COMPANY)	File No. BPCT-920228KE
)	
For Construction Permit)	
Monroe, Georgia)	

To: Honorable Joseph Chachkin
Administrative Law Judge

**OPPOSITION TO COUNTERMOTION
FOR SUMMARY DECISION**

Glendale Broadcasting Company (Glendale), by its attorneys, now opposes the "Counter-motion for Summary Decision" filed by Trinity Christian Center of Santa Ana, Inc., d/b/a Trinity Broadcasting Network (Trinity) on August 3, 1993.

In response to Glendale's July 9, 1993 "Motion for Summary Decision" on the short-spacing issue specified against Glendale, Trinity moves to have the issue summarily resolved against Glendale. Trinity's counter-motion, however, fundamentally misconstrues the law and ignores Glendale's right to equal treatment with Trinity. Commission precedent

demonstrates that Glendale is entitled to a waiver of Section 73.610(b) of the Commission's rules as a matter of law. Glendale's motion for summary decision must be granted, and Trinity's countermotion must be denied.

I. GLENDALE IS ENTITLED TO BE TREATED THE SAME AS TRINITY

Trinity's station, WHSG(TV), is short-spaced to the reference point for Channel 63, Montgomery, Alabama by 18.14 km. Glendale's currently proposed station is short-spaced to the same reference point by 18.4 km. In its countermotion, Trinity argues that it is entitled to operate with an 18.14 km short-spacing but that Glendale must propose a fully-spaced site. Its argument is completely contrary to law, logic, and the policy of the Communications Act. As the Mass Media Bureau has written, "Glendale is correct that it is entitled to be treated the same as the incumbent licensee." Mass Media Bureau's Opposition to Motion for Summary Decision, filed August 3, 1993, P. 2.

The Commission has recognized that a renewal challenger has the right to be processed under the same standards as an incumbent licensee and that an impermissible bias would be created if different standards were applied. EZ Communications, Inc., 8 FCC Rcd 2448, 2451 (MMB 1993), Royce International Broadcasting, 2 FCC Rcd 1368 (MMB 1987). There is no meaningful distinction between Trinity's station and Glendale's proposed station. If substantial and material

questions of fact exist concerning Glendale's technical qualifications, similar questions exist concerning Trinity's qualifications.

Trinity fails to recognize the extent to which Glendale would be discriminated against if Glendale was limited to a fully-spaced site while Trinity was allowed to continue operating from its short-spaced site. In a footnote, Trinity suggests that if an incumbent's comparative coverage was superior to the challenger, any prejudice could be overcome by disregarding that advantage. Trinity Countermotion, P. 6, n.5. Under Trinity's theory, however, an incumbent would still have the far more significant advantage of having a larger area within which to choose a transmitter site. Such a policy would place a greater burden on a challenger to locate a transmitter site than the incumbent faced. This disparate treatment would make it more difficult for a challenger to even file an application. Trinity's argument also ignores the possibility that an incumbent could not find a fully-spaced site that would equal the coverage a challenger would provide. In that situation, the incumbent could unfairly avoid a comparative downgrading by specifying a short-spaced site offering superior coverage that the challenger would be banned from specifying. Trinity's proposed interpretation of the short-spacing requirement, which is not supported by any pertinent case law, would clearly create an impermissible bias against renewal

challengers. The bias is particularly strong in this case, where Trinity's site is closer to the city of Atlanta than any fully-spaced site would be.

Trinity cites K-W TV, Inc., 7 FCC Rcd 3617, 3618, 70 RR 2d 1655, 1657 (1992) for the general proposition that an applicant seeking a short-spacing waiver must show that no fully-spaced sites are available. Trinity Countermotion, Pp. 3-4. The EZ and Royce cases demonstrate that the general principle is not applicable in a comparative renewal proceeding when the incumbent is short-spaced. Trinity argues that the EZ and Royce are distinguishable because no fully-spaced sites were available in either case. Trinity Opposition, Pp. 5-8. Initially, Trinity has failed to show that no fully-spaced sites were available at the time the relevant applications were filed. The engineering statement submitted with Trinity's countermotion details the present allocation situation, not the situation at the time the relevant applications were filed. See Declaration of John J. Mullaney (Attachment 1 to this petition), Section C. It cannot be ascertained from Trinity's engineering statement whether fully-spaced sites were available when the respective applications were filed.

More importantly, a review of the EZ and Royce decisions demonstrates that the presence or absence of fully-spaced sites had no effect on the result. Neither case contains a discussion of the presence or absence of fully-spaced sites.

Furthermore, under the general principle followed in K-W TV, an applicant must show "that less short-spaced sites also are unavailable." In EZ and Royce, however, such a showing was neither required nor even discussed. Instead, the Mass Media Bureau held that since existing licensees could move to a similarly short-spaced site, renewal challengers must be given the same right.¹

Trinity also argues that EZ and Royce are inapplicable because the FM and television short-spacing rules are allegedly different. Under Trinity's interpretation, an FM station at a short-spaced site may move to another site that is equally or less short-spaced, but a television station that is short-spaced may not move to another site that is equally or less short-spaced. Trinity Countermotion, Pp. 8-10. No precedent is cited for this utterly illogical proposition. If

¹ Even if Trinity's legal argument has merit, it has not shown the availability of any fully-spaced site. In order to show the "availability" of a fully-spaced site, Trinity had to show that a site could obtain FAA approval and zoning approval. WTCN Television, Inc., 14 FCC 2d 870, 883, 14 RR 2d 485, 502 (Rev. Bd. 1968). No such competent showing was made for the parcels listed in Charles Russell's declaration (Attachment 5 to the Trinity countermotion). Moreover, an applicant is not required to enter into a binding agreement in order to make the site available. Alden Communications Corp., 3 FCC Rcd 3937, 3938, 64 RR 2d 1612, 1614 (1988). No showing has been made that the owners of the parcels in question are willing to take any step short of an outright sale to make the property available. With respect to the WFOX (FM) tower, the station's chief engineer makes no representation that the site would be made available to anyone. His declaration specifically states that his statement is not an offer to lease, no terms of a leasing arrangement are proposed, and there is no statement of any willingness to enter into a lease with anybody. Trinity Countermotion, Attachment 3.

a station was short-spaced by ten miles, and it proposed a move that would reduce the short-spacing, such a move would clearly serve the public interest. Stated another way, if public interest factors could justify a ten mile short-spacing, those same factors would clearly justify a waiver for a lesser short-spacing. Under Trinity's novel interpretation, however, the station could not make such a move. If it could not find a fully-spaced site, Trinity would force the applicant to keep the increased short-spacing. In the utter absence of any evidence that such an absurd result is required by the Communications Act or by precedent, Trinity's argument must be summarily rejected.

Finally, Trinity's explanation of the chronology of how it was able to operate from its current site (Trinity Countermotion, Pp. 10-12) fully supports Glendale's position. If WTSU had constructed its station, neither Trinity nor Glendale would ever have been short-spaced. There is no doubt that Trinity is currently short-spaced to the reference point for the Montgomery allocation. If the reference coordinates for the Montgomery allocation were changed to the site that WTSU proposed, no short-spacing would exist. Indeed, Trinity's countermotion must be denied if for no other reason than to give Glendale an opportunity to file a petition to change the reference coordinates of the Montgomery allotment. If Glendale's qualifications are in question, however, so are Trinity's, since it is currently short-spaced.

Indeed, the Television Branch has indicated that a Montgomery applicant must protect a Monroe station, not vice versa. Attachment 1, Section A. Trinity could upgrade its facilities at the existing site to the maximum facilities permitted by the Commission. Id. Such facilities would have a greater potential to cause interference than Glendale's proposed facility, because Glendale's proposed interference contour extends at least twenty-six kilometers less than the maximum permitted. Attachment 1, Section E. Trinity's attempt to prevent Glendale from specifying a site which is no different from the site Trinity operates from must be rejected. Under Trinity's rationale, Trinity is not qualified. Glendale is entitled to be treated the same as Trinity, and Trinity's arguments must be rejected.

II. THE .26 KILOMETER INCREASE IN SHORT-SPACING THAT GLENDALE PROPOSES IS DE MINIMIS AND, IN ANY EVENT, WOULD SERVE THE PUBLIC INTEREST

Trinity also argues that Glendale is not entitled to a waiver of the short-spacing rule because its proposal would increase the short-spacing by 0.26 km, or 853 feet, over the short-spacing that currently exists with Trinity's station. Trinity takes issue with Glendale's contention that the .26 km increase is de minimis, and it attempts to attack Glendale's showing of public interest factors supporting the minimal increase in short-spacing. Trinity Countermotion, Pp. 12-15. In fact, the increase in short-spacing is de minimis, and

Glendale has demonstrated more than adequate public interest factors to justify this de minimis increase.

A. The De Minimis Standard

In its motion, Glendale cited Kenter Broadcasting Co., 62 RR 2d 1573, 1577 n.9 (1986) for the proposition that an increase in short-spacing of less than one mile (1.6 km) is de minimis, Trinity responds that Glendale is short-spaced by 18.4 kilometers. Trinity Countermotion, P. 13. Since Glendale has the right to be as short-spaced as Trinity is, however, the only pertinent consideration is the extent to which the short-spacing would be increased. If a short-spacing of one mile or less is de minimis, an increase in short-spacing of the same magnitude must also be de minimis. In Columbia Broadcasting System, Inc., 46 FCC 2d 458, 460-461, 29 RR 2d 1675, 1678 (1974), the Commission found in a television case that a short-spacing of .9 miles was de minimis. Clearly, an increase of only 853 feet is de minimis.

B. The Public Interest Factors

In its motion, Glendale cited the public interest factors supporting the de minimis increase in the short-spacing; the need to accommodate the FAA and prevent a hazard to air navigation, the fact that Glendale would cause less interference than a fully-spaced station operating with maximum facilities, and the existence of a large area within which an applicant for the Montgomery channel could still

locate a transmitter site. Trinity's arguments concerning these factors are unavailing.

First, Trinity wholly ignores Glendale's need to accommodate the FAA. Glendale's original site was less short-spaced than the WHSG site. The FAA unexpectedly objected to that site, however, because of the existence of a VFR route passing over the site. Affidavit of John P. Allen (Attachment 2 to this opposition), Pp. 2-3. The FAA informed Mr. Allen that Glendale would have to relocate in an area very close to Trinity's existing tower and on a line running northwest or southeast of Trinity's tower. Id. at P. 3. Clearly, the FAA severely limited the suitability of sites near Trinity's tower.

Glendale's need and willingness to accommodate the FAA is an important public interest factor. In Caloosa Television Corp., 3 FCC Rcd 3656, 64 RR 2d 1640 (1988), recon. denied, 4 FCC Rcd 4762, 66 RR 2d 1303 (1989), the Commission allowed a short-spacing of 11.4 kilometers (over forty times the amount of short-spacing present in this case) so that a licensee could move to a site acceptable to the FAA that would make the station competitive. The Commission has also granted short-spacing waivers to allow stations to locate on antenna farms to avoid FAA objects. The avoidance of a hazard to air navigation is sufficiently important to justify the de minimis increase in short-spacing. Neither Crain Broadcasting, Inc., FCC 93-311 (released July 2, 1993) nor Murray Hill

Broadcasting Company, 8 FCC Rcd 325, 326, 71 RR 2d 1335, 1336 (1993) bear any factual relationship to this case.

With respect to the second public interest factor relied on by Glendale, Trinity admits that the Commission relied upon that factor in Sarkes Tarzian, Inc., 6 FCC Rcd 2465, 2467, 69 RR 2d 157, 160 (1991). Without any support, however, it blithely calls that element a "minor factor." Trinity Countermotion, P. 14. If Glendale's proposal would have a greater potential to cause interference than a fully-spaced station with maximum facilities, Trinity would no doubt be heavily relying upon that fact. The Sarkes Tarzian case makes this factor material, and the Presiding Judge must consider it.

The final relevant consideration is that there is an area of 517 square kilometers within which a Montgomery applicant could place a transmitter site and be fully-spaced to Glendale. The Commission has regularly considered the availability of fully-spaced transmitter sites in waiving the short-spacing rule with respect to vacant allocations. Delta Rio Broadcasting Co., 50 FCC 2d 596, 597, 32 RR 2d 205, 206 (1974), Ann Arbor, Michigan, et al., 42 FCC 2d 831, 832, 28 RR 2d 444, 445-446 (1973). Trinity's citation of Ogden Television, Inc., 7 FCC Rcd 3116, 3117 (MMB 1992) (Trinity Countermotion, P. 15) is inapposite because a 517 square kilometer area within which to locate a transmitter site is hardly a severe restriction. The WTSU permittee was able to

find a site within that area. Trinity's suggestion that Glendale could increase that area by specifying a fully-spaced site wholly ignores the fact that Trinity's current operation limits the allowable site area just as much as Glendale's proposal. See Attachment 1, Section B. Again, Trinity is seeking special treatment by remaining at a short-spaced site while trying to fence Glendale to specify a fully-spaced site. If Trinity thinks great public interest benefits would result from the specification of a fully-spaced site, it should move to such a site. Trinity's attempt to attack the public interest factors relied upon by Glendale has no basis in Commission precedent or policy. Glendale is entitled to a waiver as a matter of law.

III. CONCLUSION

Glendale is entitled to be as short-spaced to the Montgomery allotment as Trinity currently is. The .26 kilometer increase in short-spacing is de minimis and, in any event, is amply justified by three distinct public interest factors.

Accordingly, Glendale asks the Presiding Judge to deny Trinity's "Countermotion for Summary Decision" and grant its "Motion for Summary Decision."

Respectfully submitted,

GLENDALE BROADCASTING COMPANY

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Its Attorneys

Date: August 12, 1993

MULLANEY ENGINEERING, INC.

9049 SHADY GROVE COURT
GAITHERSBURG, MD 20877

301 921-0115

ENGINEERING EXHIBIT EE-SUM-1:

**GLENDALE BROADCASTING COMPANY
MONROE, GEORGIA
MM DOCKET 93-156 BPCT-920228KC**

AUGUST 9, 1993

**ENGINEERING IN SUPPORT OF
AN OPPOSITION TO A
COUNTERMOTION FOR SUMMARY DECISION
FILED BY WHSG(TV)**

MM DOCKET 93-156

MULLANEY ENGINEERING, INC.

DECLARATION

I, John J. Mullaney, declare and state that I am a graduate electrical engineer with a B.E.E. and my qualifications are known to the Federal Communications Commission, and that I am an engineer in the firm of Mullaney Engineering, Inc., and that firm has been retained by Glendale Broadcasting Company to prepare an exhibit in support of an opposition to a countermotion for a summary judgement regarding the short spacing issue.

All facts contained herein are true of his own knowledge except where stated to be on information or belief, and as to those facts, I believe them to be true. I declare under penalty of perjury that the foregoing is true and correct.


John J. Mullaney

Executed on the 9th day of August 1993.

MULLANEY ENGINEERING, INC.

ENGINEERING EXHIBIT EE-SUM-1:

**GLENDALE BROADCASTING COMPANY
MONROE, GEORGIA
MM DOCKET 93-156 BPCT-920228KC**

NARRATIVE STATEMENT:

I. GENERAL:

This engineering statement has been prepared on behalf of Glendale Broadcasting Company. The purpose of this statement is to support an opposition to a countermotion for summary decision filed by Trinity Broadcasting Network, licensee of Television Station WHSG(TV) in MM Docket 93-156 - Monroe, Georgia.

Specifically: To determine with respect to Glendale Broadcasting Company:

1(a) if circumstances exist which would warrant a waiver of Section 73.610 of the Commission's Rules.

II. ENGINEERING DISCUSSION:

A. De Facto Short Spacing:

The short spacing involving WHSG on Channel 63 at Monroe, GA, and the Vacant allotment on Channel 63 at Montgomery, AL, resulted in a "de facto" manner when the FCC cancelled the unbuilt permit held by Troy State University System for WTSU-TV at Montgomery, AL.

Consequently, it is not the Monroe allotment that is short spaced but it is the Montgomery allotment that is short spaced. Since the TV rules do not normally permit large short spacing (18 km) one must conclude that the Montgomery allotment is now site restricted to the west so as to prevent a short spacing. The TV branch indicated that a new applicant applying today for the Montgomery allotment would be required to provide the required separation based upon the existing location of WHSG or that new Montgomery applicant would be required to seek a waiver.

The distinction of which station is short spaced is clarified by the fact that when initially granted the construction permit for Monroe had no limitations placed on it as a result of a short spacing (obviously it could not have since the Montgomery short spacing did not exist at the time of grant). While WHSG currently operates with less than the maximum facilities permitted a UHF TV stations located in Zone 2 (5000 kW Omni at 600 meters) it could at anytime now or in the future file for maximum facilities not withstanding the de facto short spacing with Montgomery. To conclude that WHSG had an undocumented limitation on what facilities it can propose would be an involuntary modification of its license rights.

B. Increased Area of Availability:

In the countermotion filed by Trinity they argue that should Glendale be required to supply the entire spacing to the Vacant allotment at Montgomery the permissible area for Montgomery would increase by more than 250 percent. However, what Trinity didn't say is should Glendale be unsuccessful in its bid to become the licensee then the permissible area would remain

unchanged. Trinity has not suggested that it would agree to a requirement that it relocate to eliminate its short spacing should it remain the licensee of the Monroe facility.

It should be understood that the last CP for the Montgomery allotment proposed a site that was nearly 7 miles greater than the minimum spacing required by the rules. Consequently, it is evident that (according to Troy State University) the most desirable site is not located near the minimum spacing and, therefore, the proposed increase by Glendale of 0.26 kilometers (0.16 miles or 853 feet) would have no impact on that selection.

C. Similar FM Situations:

Trinity submitted maps in which it allegedly depicted the permissible areas for two of the similar FM cases cited by Glendale. While we do not accept the distinction that Trinity has attempted to offered (i.e. .. the area was totally short spaced and therefore, they was no way to meet the required spacing ..) they have presented the FM site restrictions at they exist now (summer 1993). They apparently made no attempt to illustrate the areas as they existed when the FM applications were initially filed (up to six years ago). Consequently, they have failed to support their unique distinction of why the FM waivers were granted in those cases and yet should not be granted for Glendale.

D. FAA Restrictions Caused Additional Short Spacing:

In its initial application Glendale proposed a site that was further away from the Montgomery allotment than is the current site operated by WHSG. It was only after the FAA informed Glendale that a determination of hazard was

going to be issued that it (Glendale) sought an alternative site. The FAA initially suggested Glendale find a site within 500 feet of the WHSG tower. However, it was quickly pointed out to the FAA that this would require both towers to be essentially on the same piece of property in that the guy wires would substantially overlap. The FAA said that they wanted the two towers to be as close as possible and that in an effort of compromise they would consider a new site 1200 feet away from the existing WHSG tower. In addition, the FAA specifically stated that they wanted both towers to be on a bearing of northwest to southeast. The specifically stated that they would not agree to a new site which was northeast or southwest since this would establish a goal post configuration (two tower perpendicular to the flow of traffic). This was to minimize the impact on VFR airplane traffic.

The site ultimately submitted to the FAA and which currently is pending before the FCC was located to the northwest of the existing WHSG tower. While beyond the 1200 foot limitation suggested by the FAA the FAA has issued its approval.

E. Equivalent Protection:

The amended site proposed by Glendale is 0.26 kilometers (0.16 miles or 853 feet) more short spaced than is the licensed facility of WHSG. Such a difference is de minimis. It should be understood that the required separation of 280.8 kilometers assumes that both stations are operating with maximum facilities.


The Monroe, Georgia, allotment is located in Zone II and, therefore, is permitted an ERP of 5000 kW at a maximum HAAT of 600 meters. The

facilities proposed by Glendale are an ERP of 5000 kW-DA at an HAAT of 354 meters. The ERP in the general direction of the Montgomery allotment is less than 4000 kW. Using the co-channel interference contour (36 dBu) as a reference the Glendale facilities generate an interference contour that extends at least 26 kilometers less than the maximum permitted. Since the requested short spacing is only 18.4 kilometers it is obvious that the Montgomery allotment is fully protected.

III. SUMMARY:

Glendale Broadcasting Company hereby opposes the counter-motion and resubmits its request for a summary judgement regarding the proposed short spacing to a Vacant Allotment at Montgomery, Alabama. Glendale believes that its request is completely consistent with the existing "de facto" waiver under which WHSG is operating. In addition, it has been shown that even with the proposed increase in short spacing there is significantly less interference likely to result since Glendale has proposed less than the maximum HAAT.

August 9, 1993.


John J. Mullaney

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Airspace Consultant

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)

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AFFIDAVIT OF JOHN P. ALLEN

I, John P. Allen, being first duly sworn, do hereby depose and state that I am an Airspace Consultant in private practice, with offices at 1628 Calhoun Street, Fernandina Beach, Florida. My qualifications are a matter of record with the Federal Aviation Administration (FAA) and the Federal Communications Commission (FCC). A brief resume is attached hereto as "Attachment A."

I have been retained by Glendale Broadcasting Company, ("Glendale") to respond to the COUNTERMOTION FOR SUMMARY DECISION filed by Trinity Christian Center of Santa Ana, Inc. d/b/a Trinity Broadcasting Network. Specifically, I have been requested to explain how the original filed site for Glendale proposal located near Monroe, Georgia was amended to its presently approved FAA location.

On February 19, 1992, on behalf of Glendale, I filed a Notice of Proposed Construction or Alteration (FAA Form 7460-1), with the FAA's Regional Office in Atlanta, Georgia. The filed location at Monroe, GA placed the site at Coordinates: Latitude 33-46-17 North - Longitude 84-00-25 West (North American Datum - 27), at a height of 1124 feet above ground level (AGL) - 2049 feet above mean sea level (AMSL). The FAA's Regional Office assigned Aeronautical Study No. 92-ASO-0381-OE to the proposal.

A preliminary aeronautical evaluation conducted by my office in accordance with the criteria for determining obstructions to the navigable airspace as set forth in Subpart C of Part 77, disclosed that the proposal exceeded 77.23(a)(1) by 624 feet, a height exceeding 500 feet above ground level at its site. The FAA's internal evaluation disclosed the identical aeronautical effect and notified my office of this on May 12, 1992. The FAA, at my request, initiated further aeronautical study on May 22, 1992. Further aeronautical study is required whenever a proposed structure exceeds one or more of the standards contained within Subpart C. Further aeronautical study was concluded on June 21, 1992.

In mid September, I received a call from the FAA regarding the proposed antenna tower located near Monroe, GA. The FAA had received aeronautical comments pertaining to a potential VFR Route between Stone Mountain and the Covington Airport. At that time I requested the FAA to validate the aeronautical comments with an unannounced radar

analysis within a two statute mile radius of the proposed site. The FAA conducted the radar analysis and the results confirmed the existence of a VFR Route between Stone Mountain and Covington Airport.

In negotiating a solution to the aeronautical effect concerning the VFR Route, the FAA would not agree that the proposed antenna tower would have no greater aeronautical effect on VFR en route aircraft than the existing 1149 foot AGL - 2049 foot AMSL antenna tower some 11,661 feet to the south of the proposed antenna tower. The FAA's aeronautical concern was that the proposed antenna tower, which was located north of the existing structure and was creating in effect a goal post situation. The FAA considers a goal posting scenario to be in effect when a new proposed tower is placed opposite an existing tower and the on going aeronautical operations would be operating between the two towers. FAA in mitigating this scenario prefers the new proposed tower to be placed on the same side of the identified route as the existing tower. The FAA's rational is that the on going aeronautical operations are already avoiding the existing tower by operating on the opposite side of the identified route. Therefore, from an aviation safety stand point, it is safer to have the proposed tower located on the same side of the identified route and not compromise aviation safety.

The FAA was of the opinion that if the proposed structure could be located within 500 feet of the existing structure, on a northwest - southeast line parallel to the VFR Route, then the aeronautical effect would be mitigated. I pointed out to the FAA, that in all reality, the two antenna towers should be spaced outside of any fall down radius for